

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHER DISTRICT OF ILLINOIS  
EASTERN DIVISION**

UNITED STATES OF AMERICA	)	
for use and benefit of A&C CONSTRUCTION &	)	
INSTALLATION, CO. WLL	)	
	)	No. 1:17-cv-04307
Plaintiffs,	)	
	)	
v.	)	Assigned Judge:
	)	Harry D. Leinenweber
ZURICH AMERICAN INSURANCE COMPANY	)	
and THE INSURANCE COMPANY OF THE	)	Designated Magistrate:
STATE OF PENNSYLVANIA,	)	Judge Maria Valdez
	)	
Defendants.	)	

**PLAINTIFF’S REPLY IN SUPPORT OF ITS  
MOTION TO EXTEND DISCOVERY DEADLINE**

Plaintiff, A&C Construction & Installation, CO. WLL (“A&C”), by and through its counsel, K&L Gates LLP, and pursuant to Federal Rules of Civil Procedure 16, hereby moves for an extension of the discovery deadline set by the Court up to and including November 30, 2018 (the “Motion”) (Dkt. No. 67.) In support of its Motion, A&C states as follows:

In their Response, Defendants do not oppose the relief requested by Plaintiff. Defendants do not (and cannot) contend that discovery can be completed in this case before the current August 31, 2018 deadline. Instead, they argue that the Court should not rule on the instant motion until after it first rules on Defendants’ motion to stay these proceedings pending the completion of an arbitration between different parties relating to only a small subset of the issues in this litigation.

Defendants do not dispute that the discovery deadline must be extended if the Court denies their motion to stay. Indeed, Defendants do not even request that the discovery cutoff date remain the same, but just that the Court “wait to address discovery in this matter until the issue of

the stay is resolved.” (Response at 3.) That motion is scheduled for a hearing on August 30, 2018, the day before the current discovery cutoff. Granting the instant motion will have no impact on the merits of Defendants’ motion to stay.

Rather than opposing the relief requested by Plaintiff, Defendants use their Response to cast aspersions, falsely accusing Plaintiff of “idleness.” Plaintiff has diligently pursued the facts underlying Defendants’ purported defenses, while Defendants and their principal, AMEC (represented by the same attorneys), have interfered with those efforts at every turn:

January 30, 2018	Plaintiff served interrogatories and requests for documents upon Defendants, seeking facts underlying Defendants’ purported defenses	Defendants respond that information supporting their defenses is not in their possession, custody or control.
February 15, 2018	Plaintiff served subpoena for documents on AMEC, the party undisputedly in possession of the critical project files	AMEC (represented by the same counsel as Defendants) moved to quash and has refused to produce a single document until its motion is ruled upon.
April 4, 2018	Plaintiff served a subpoena for documents on the U.S. Army Corps of Engineers, the owner of the project at issue	USACE produced certain records on July 27, 2018, but withheld critical information (particularly AMEC’s Request for Equitable Adjustment) at the instruction of AMEC.
May 17, 2018	Plaintiff served Robert J. Feighery (AMEC employee identified in Defendants’ disclosures) with a subpoena for deposition, scheduled for July 27, 2018.	AMEC has refused to produce documents, so deposition has been postponed pending the Court’s ruling on AMEC’s motion to quash
May 18, 2018	Plaintiff served Sherri Bahns (AMEC employee identified in Defendants’ disclosures) with a subpoena for deposition, scheduled for July 20, 2018	AMEC has refused to produce documents, so deposition has been postponed pending the Court’s ruling on AMEC’s motion to quash
May 18, 2018	Plaintiff served Jennifer Sobeski (AMEC employee identified in Defendants’ disclosures) with a subpoena for deposition, scheduled for July 19, 2018.	AMEC has refused to produce documents, so deposition has been postponed pending the Court’s ruling on AMEC’s motion to quash
May 22, 2018	Plaintiff served Claire Hackett (AMEC employee identified in Defendants’ disclosures) with a subpoena for deposition, scheduled	AMEC has refused to produce documents, so deposition has been postponed pending the Court’s ruling on AMEC’s motion to quash

	for July 26, 2018	
June 6, 2018	Plaintiff served AMEC with subpoena for representative deposition	AMEC has refused to produce documents, so deposition has been postponed pending the Court's ruling on AMEC's motion to quash
June 15, 2018	Plaintiff served Defendants with notices of representative depositions and a list of topics	Defendants have refused to produce representatives until after Plaintiff's foreign representative appears in Chicago

Further, Plaintiff has produced thousands of pages of documents and is working on a supplemental production, all supporting its claims for payment. Plaintiff has also agreed to produce a representative deponent in Chicago, but Defendants are well aware that Plaintiff's representative deponent applied for a visa more than three months ago, and that it has not yet issued. (*See* e-mail chain with U.S. Embassy, attached as Exhibit 1 hereto.) A&C has offered to make this witness available in Qatar or Lebanon to expedite discovery, but Defendants have refused this offer (absent Plaintiff's agreement to pay all of Defendants' expenses). Defendants have not noticed any other depositions, but nevertheless conclude that "A&C has failed to produce a single witness to support its claims." (Response at 1.)

In short, Plaintiff has done everything in its power to move the discovery process forward, but has been hindered by Defendants and AMEC (represented by the same counsel) and a delay in the issuance of a visa. Thus, there is good cause to extend the discovery cutoff date to November 30, 2018.

WHEREFORE, Plaintiff, A&C Construction & Installation, CO. WLL, respectfully requests that the Court grant its Motion to Extend the Discovery Deadline, extend the discovery period up to and including November 30, 2018, and grant any additional relief it determines appropriate.

Dated: August 6, 2018

Respectfully submitted,

A&C CONSTRUCTION &  
INSTALLATION CO. WLL

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*Attorneys for A&C Construction &  
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**CERTIFICATE OF SERVICE**

The undersigned attorney certifies that on the 6th day of August, 2018, a true and correct copy of the foregoing **Reply in Support of Plaintiff's Motion to Extend Discovery** was served by electronic transmission via the Electronic Case Filing system of the Court upon the following counsel of record:

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